

(Pub. L. 101-380, title I, §1013, Aug. 18, 1990, 104 Stat. 501; Pub. L. 104-324, title XI, §1142(b), Oct. 19, 1996, 110 Stat. 3991; Pub. L. 108-293, title VII, §708(a), Aug. 9, 2004, 118 Stat. 1077.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, known as the Oil Pollution Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108-293 added subsec.(f).
1996—Subsec. (d). Pub. L. 104-324 substituted “section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled,” for “section”.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (e) of this section delegated to Secretary of Department in which Coast Guard is operating by section 7(c)(2) of Ex. Ord. No. 12777, Oct. 18, 1991, 56 F.R. 54767, set out as a note under section 1321 of this title.

§ 2714. Designation of source and advertisement

(a) Designation of source and notification

When the President receives information of an incident, the President shall, where possible and appropriate, designate the source or sources of the discharge or threat. If a designated source is a vessel or a facility, the President shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) Advertisement by responsible party or guarantor

(1) If a responsible party or guarantor fails to inform the President, within 5 days after receiving notification of a designation under subsection (a) of this section, of the party's or the guarantor's denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented, in accordance with regulations promulgated by the President. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a) of this section. If advertisement is not otherwise made in accordance with this subsection, the President shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.

(2) An advertisement under paragraph (1) shall state that a claimant may present a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled and that payment of such a claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.

(c) Advertisement by President

If—

(1) the responsible party and the guarantor both deny a designation within 5 days after re-

ceiving notification of a designation under subsection (a) of this section,

(2) the source of the discharge or threat was a public vessel, or

(3) the President is unable to designate the source or sources of the discharge or threat under subsection (a) of this section,

the President shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

(Pub. L. 101-380, title I, §1014, Aug. 18, 1990, 104 Stat. 501; Pub. L. 104-324, title XI, §1142(c), Oct. 19, 1996, 110 Stat. 3991.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-324 designated existing provisions as par. (1) and added par. (2).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Department in which Coast Guard is operating by section 7(d)(2) of Ex. Ord. No. 12777, Oct. 18, 1991, 56 F.R. 54768, set out as a note under section 1321 of this title.

§ 2715. Subrogation

(a) In general

Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other law.

(b) Interim damages

(1) In general

If a responsible party, a guarantor, or the Fund has made payment to a claimant for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, subrogation under subsection (a) of this section shall apply only with respect to the portion of the claim reflected in the paid interim claim.

(2) Final damages

Payment of such a claim shall not foreclose a claimant's right to recovery of all damages to which the claimant otherwise is entitled under this Act or under any other law.

(c) Actions on behalf of Fund

At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 2716 of this title) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

(d) Authority to settle

The head of any department or agency responsible for recovering amounts for which a person is liable under this subchapter may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed \$500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.

(Pub. L. 101-380, title I, §1015, Aug. 18, 1990, 104 Stat. 502; Pub. L. 104-324, title XI, §1142(d), Oct. 19, 1996, 110 Stat. 3991; Pub. L. 108-293, title VII, §706, Aug. 9, 2004, 118 Stat. 1076.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, known as the Oil Pollution Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

2004—Subsec. (d), Pub. L. 108-293 added subsec. (d).
1996—Subsecs. (b), (c), Pub. L. 104-324 added subsec. (b) and redesignated former subsec. (b) as (c).

§ 2716. Financial responsibility**(a) Requirement**

The responsible party for—

(1) any vessel over 300 gross tons (except a non-self-propelled vessel that does not carry oil as cargo or fuel) using any place subject to the jurisdiction of the United States;

(2) any vessel using the waters of the exclusive economic zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States; or

(3) any tank vessel over 100 gross tons using any place subject to the jurisdiction of the United States;

shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which the responsible party could be subjected under section 2704(a) or (d) of this title, in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the amount of the maximum liability applicable to the vessel having the greatest maximum liability.

(b) Sanctions**(1) Withholding clearance**

The Secretary of the Treasury shall withhold or revoke the clearance required by section 60105 of title 46 of any vessel subject to this section that does not have the evidence of financial responsibility required for the vessel under this section.

(2) Denying entry to or detaining vessels

The Secretary may—

(A) deny entry to any vessel to any place in the United States, or to the navigable waters, or

(B) detain at the place,

any vessel that, upon request, does not produce the evidence of financial responsibility required for the vessel under this section.

(3) Seizure of vessel

Any vessel subject to the requirements of this section which is found in the navigable waters without the necessary evidence of financial responsibility for the vessel shall be subject to seizure by and forfeiture to the United States.

(c) Offshore facilities**(1) In general****(A) Evidence of financial responsibility required**

Except as provided in paragraph (2), a responsible party with respect to an offshore facility that—

(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

(II) is located in coastal inland waters, such as bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

(ii) is used for exploring for, drilling for, producing, or transporting oil from facilities engaged in oil exploration, drilling, or production; and

(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

(B) Amount required generally

Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria of subparagraph (A) is—

(i) \$35,000,000 for an offshore facility located seaward of the seaward boundary of a State; or

(ii) \$10,000,000 for an offshore facility located landward of the seaward boundary of a State.

(C) Greater amount

If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraph (B) is justified based on the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding \$150,000,000.